

1 Christopher B. Hockett
Neal A. Potischman
2 **DAVIS POLK & WARDWELL**
1600 El Camino Real
3 Menlo Park, California 94025
650-752-2000
4 650-752-2111 (Fax)

5 Gavin Rooney
LOWENSTEIN SANDLER PC
6 65 Livingston Avenue
Roseland, New Jersey 07068
7 973-597-2500
973-597-2400 (Fax)

8 Attorneys for Defendants
9

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEW JERSEY**

12 **DEBBIE MILLIRON**, individually and
13 on behalf of all others similarly situated,

14 Plaintiff,

15 v.

16 **T-MOBILE USA, INC.**,

17 Defendant.
18
19
20
21
22
23
24
25
26
27
28

Civil Action No. 08-04149 (JLL) (ES)

DECLARATION OF JOEL K. BOTZET
REGARDING SETTLEMENT
ADMINISTRATION
SERVICES

1 I, JOEL K. BOTZET, declare and say as follows:

2
3 1. I am a Senior Project Administrator with Rust Consulting, Inc. ("Rust Consulting").
4 My business address is 625 Marquette Avenue, Suite 880, Minneapolis, Minnesota 55402. My
5 telephone number is 612-359-2035. I am over twenty-one years of age and authorized to make this
6 declaration on behalf of Rust Consulting. Except as otherwise stated, I am fully familiar with and
7 have personal knowledge of the matters in this declaration and am competent to testify about them
8 if called upon to do so.

9
10 2. Rust Consulting has extensive experience in class action matters, having provided
11 services in class actions involving antitrust, securities fraud, property damage, employment
12 discrimination, product liability, insurance and consumer issues. Combined, we have provided
13 services in more than 2,500 matters, including: *In re Compact Disc Minimum Advertised Price*
14 *Antitrust*, MDL No. 982 (U.S. Dist. Ct. W.D. Pa.), music products price-fixing settlement; *In re*
15 *Waste Management, Inc. Securities Litigation*, Master File Number H-99-2183, securities
16 settlement; *McNeil v. American General Life & Accident Co.*, Case No. 3-99-1157 (U.S. Dist. Ct.
17 M.D. Tenn. Nashville Div.), industrial life insurance settlement; *Naef v. Masonite Corp.*, No. 94-
18 4033 (Ala. Cir. Ct., Mobile Co.), hardboard siding defective product settlement; *In re FTD.COM,*
19 *Inc. Shareholders Litigation*, Consolidated C.A. No. 19458-NC, securities settlement; *In re*
20 *Metropolitan Life Ins. Co.*, Misc. Docket No. 96-179 MDL No. 1091 (U.S. Dist. W. D. Pa.), life
21 insurance market conduct settlement; *Benacquisto v. American Express Financial Corp.*, No. 00-
22 1980 DSD, No. 96-18477, No. 97-4742, No. 98-15681 (U.S. Dist. Ct., D. Minn.), annuity and life
23 insurance and market conduct settlements; *Coordination Proceedings Special Title (Rule 1550(b))*
24 *Microsoft I-V Cases*, Case No. J.C.C.P. No. 4106 (Sup. Ct., San Francisco, Cal.), consumer
25 software settlement; and numerous other cases.

1 3. I submit this declaration at the request of counsel in *Milliron v. T-Mobile USA, Inc.*,
2 United States District Court for the District of New Jersey, Civil Action No. 08-04149 (JLL) (ES).

3 4. Rust Consulting has been engaged by T-Mobile USA, Inc. ("T-Mobile") to provide
4 settlement administration services in the *Milliron v. T-Mobile USA, Inc.* Settlement ("Settlement")
5 in accordance with the Court's order of February 19, 2009, preliminarily approving the Settlement.
6 Rust Consulting's administrative responsibilities have included the following:

- 7 a. Assume the role of Settlement Administrator;
- 8 b. Obtain a post office box for receiving requests for exclusion, undeliverable mail, and
9 other correspondence about the proposed Settlement;
- 10 c. Maintain the settlement website (www.ETF-Settlement.com) in accordance with the
11 Court's order;
- 12 d. Establish a toll-free telephone support line (1-800-589-1423);
- 13 e. Design and program systems for the claims database;
- 14 f. Mail the Postcard Notice of Proposed Class Action Settlement; and
- 15 g. Arrange for publication of the Notice of Proposed Class Action Settlement.

16
17
18 **MAILING OF THE NOTICE**

19 5. Working with counsel, Rust Consulting formatted the Court-approved Notice for
20 mailing. After receiving approval from counsel, a sufficient number of Notices were printed
21 according to the anticipated class size.

22 6. T-Mobile provided Rust Consulting with data files containing names of settlement
23 class members. The data files also contained these settlement class members' last known addresses.

24 7. Rust Consulting retained the services of Satori Software, Inc. to verify and update
25 the address information through the National Change of Address database ("NCOA"). Satori
26 Software, Inc. is licensed by the United States Postal Service to provide National Change of
27 Address.

1 Address services. NCOA contains all requested changes of address which have been filed with the
2 United States Postal Service and are currently in effect. Sartori Software, Inc. cross-referenced the
3 addresses from the Class Member list with addresses found in the NCOA cards filed with the
4 United States Postal Service. The service provides address correction and updating for lists that are
5 being prepared for mailing. The Coding Accuracy Support System ("CASS") was also utilized to
6 standardize the addresses in the Class Member List to ensure that they conformed to National Postal
7 Service Rules by using a computer program designed for that purpose.

8
9 8. Rust Consulting retained a printing and mailing service to print and mail individual
10 Postcard Notices. Rust Consulting oversaw the print and mail process.

11 9. Pursuant to paragraph 8(a) of the Court's order of February 19, 2009, preliminarily
12 approving the Settlement, between May 8, 2009 and May 12, 2009, Rust Consulting caused a total
13 of 1,056,653 Postcard Notices to be mailed by First-Class Mail to persons in the United States who
14 paid a Flat-Rate ETF at some time between January 1, 2006 and February 19, 2009. A copy of this
15 notice is attached as Exhibit A.

16
17 10. On June 16, 2009, Rust Consulting caused a Postcard Notice mailing to be sent to
18 182,037 persons in the United States who paid a Flat-Rate ETF in 2005. A copy of this notice is
19 attached as Exhibit B.

20 11. Pursuant to paragraph 8(b) of the Court's order of February 19, 2009, preliminarily
21 approving the Settlement, on May 19, 2009, Rust Consulting caused a total of 468,552 Postcard
22 Notices to be mailed by First-Class Mail to persons in the United States who had a contract with T-
23 Mobile that included a provision for a Flat-Rate ETF on February 19, 2009. A copy of this notice is
24 attached as Exhibit C.
25
26
27
28

PUBLICATION OF NOTICE

12. Pursuant to paragraph 8(c) of the Court's order of February 19, 2009, preliminarily approving the Settlement, Rust Consulting caused a Notice of Proposed Class Action Settlement to be published in eight newspapers (the Dallas Morning News, USA Today, the New York Times, the Los Angeles Times, the Chicago Tribune, the Philadelphia Inquirer, the San Francisco Chronicle, and the Washington Post) for two consecutive weeks between April 29, 2009 and May 4, 2009. Notice was published in *Parade* magazine on June 21, 2009. A copy of the Publication Notice is attached as Exhibit D to this declaration. A list describing the newspapers, the publication dates of the notices and locations where the notices appeared within the newspapers is attached to this declaration as Exhibit E.

SETTLEMENT WEBSITE (www.ETF-Settlement.com)

13. The Internet address www.ETF-Settlement.com was obtained by Freed & Weiss, LLC for this Settlement. The website was redirected to Rust Consulting to set up and host settlement content. The Internet address is provided in the Notice and on the Interactive Voice Response System. The website has the Notice, Order Granting Preliminary Approval to Proposed Settlement, the Settlement Agreement, Plan of Allocation, Plaintiff's Amended Complaint, Request of Class Counsel for an Award of Attorneys' Fees, Order Granting Scheduling Modifications, Claim Form with instructions, answers to frequently asked questions, and contact information for the Settlement Administrator and Class Counsel posted in English and Spanish. In addition, an electronic Claim Form allows Class Members to file claims online in English and in Spanish.

14. As of June 27, 2009, there have been 123,093 unique visits to the website.

15. As of June 27, 2009, 38,955 English claims and 444 Spanish claims have been filed online.

INCOMING MAIL

16. Rust Consulting established a post office box, P.O. Box 945, Minneapolis, MN 55440-0945, for receipt of Claim Forms, requests for exclusion from the class, and other correspondence. Mail received at the post office box is collected and processed daily.

17. As of June 27, 2009, Rust Consulting has received 5,060 English Claim Forms and 79 Spanish Claim Forms.

TELEPHONE SUPPORT

18. A toll-free telephone number was established and identified in the Notice and website for the purpose of allowing potential Class Members to call and receive information regarding the Settlement. The toll-free telephone established is 1-800-589-1423.

19. The toll-free number connects callers with an Interactive Voice Response system that provides a recorded message including a brief summary of the proposed Settlement and the option to select one of several more detailed recorded messages addressing frequently asked questions in English and Spanish. Callers also have the option of requesting a Notice and Claim Form. The toll-free line and recorded information is open 24 hours a day, 7 days a week.

20. As of June 27, 2009, 49,112 calls selecting the English option and 7,302 calls selecting the Spanish option have been made to the toll-free number.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 2nd day of July 2009, at Minneapolis, Minnesota.


JOEL K. BOTZET

**Important Notice from the United States District Court
for the District of New Jersey about a Class Action Settlement**

Para ver este aviso en español, visita www.etf-settlement.com/espanol

If you paid or were charged a T-Mobile flat-rate Early Termination Fee ("ETF") from July 23, 1999 to February 19, 2009, or were subject to a T-Mobile flat-rate ETF on February 19, 2009, you could get benefits from a settlement.

A proposed settlement has been reached in a class action alleging that the T-Mobile flat-rate ETF (generally \$200) is unlawful. **The sole purpose of this Notice is to inform you of the Settlement so that you may decide what to do about it.**

If the Settlement is approved, Settlement Class Members who submit Claim Forms may receive monetary or other benefits. You may also choose to exclude yourself from, or object to, the Settlement.

For a full description of the Settlement, related Court documents, and deadlines and forms, please visit www.etf-settlement.com. Claim Forms are due August 23, 2009, but the date may be extended. Requests to exclude yourself from the Settlement must be submitted to the Settlement Administrator and are due June 3, 2009, any objections to the Settlement (which may be made through an attorney) are due June 3, 2009, and any objections to attorneys' fees requested are due June 22, 2009. **If you do not exclude yourself by June 3, 2009, and you are a member of the Class, you will be bound by the Settlement.** You can get a Claim Form at www.etf-settlement.com/claimform, by calling 1-800-589-1423 or by writing the Settlement Administrator at P.O. Box 945, Minneapolis, Minnesota 55440-0945. Questions may also be directed to Class Counsel, by email at Info@etf-settlement.com.

Please do not contact T-Mobile or the Court with questions about this Settlement.

SETTLEMENT ADMINISTRATOR
PO BOX 945
MINNEAPOLIS, MN 55440-0945

IMPORTANT LEGAL NOTICE



POSTCARD #123456789
NAME
ADDRESS 1
ADDRESS 2
CITY STATE ZIP CODE

**Important Notice from the United States District Court
for the District of New Jersey about a Class Action Settlement**

Para ver este aviso en español, visita www.elf-settlement.com/espanol

If you paid or were charged a T-Mobile flat-rate Early Termination Fee ("ETF") from July 23, 1999 to February 19, 2009, or were subject to a T-Mobile flat-rate ETF on February 19, 2009, you could get benefits from a settlement.

A proposed settlement has been reached in a class action alleging that the T-Mobile flat-rate ETF (generally \$200) is unlawful. **The sole purpose of this Notice is to inform you of the Settlement so that you may decide what to do about it.**

If the Settlement is approved, Settlement Class Members who submit Claim Forms may receive monetary or other benefits. You may also choose to exclude yourself from, or object to, the Settlement.

For a full description of the Settlement, related Court documents, and deadlines and forms, please visit www.elf-settlement.com. Claim Forms are due September 25, 2009, but the date may be extended. Requests to exclude yourself from the Settlement must be submitted to the Settlement Administrator and are due July 2, 2009, any objections to the Settlement (which may be made through an attorney) are due July 2, 2009, and any objections to attorneys' fees requested are due July 22, 2009. **If you do not exclude yourself by July 2, 2009 and you are a member of the Class, you will be bound by the Settlement.** You can get a Claim Form at www.elf-settlement.com/claimform, by calling 1-800-589-1423 or by writing the Settlement Administrator at P.O. Box 945, Minneapolis, Minnesota 55440-0945. Questions may also be directed to Class Counsel, by email at Info@elf-settlement.com.

Please do not contact T-Mobile or the Court with questions about this Settlement.

SETTLEMENT ADMINISTRATOR
PO BOX 945
MINNEAPOLIS, MN 55440-0945

IMPORTANT LEGAL NOTICE

PRESORTED
FIRST CLASS MAIL
US POSTAGE
PAID
RUST CONSULTING, INC

**Important Notice from the United States District Court
for the District of New Jersey about a Class Action Settlement**

Para ver este aviso en español, visita www.ett-settlement.com/espanol

If you paid or were charged a T-Mobile flat-rate Early Termination Fee ("ETF") from July 23, 1999 to February 19, 2009, or were subject to a T-Mobile flat-rate ETF on February 19, 2009, you could get benefits from a settlement.

A proposed settlement has been reached in a class action alleging that the T-Mobile flat-rate ETF (generally \$200) is unlawful. **The sole purpose of this Notice is to inform you of the Settlement so that you may decide what to do about it.**

If the Settlement is approved, Settlement Class Members who submit Claim Forms may receive monetary or other benefits. You may also choose to exclude yourself from, or object to, the Settlement.

For a full description of the Settlement, related Court documents, and deadlines and forms, please visit www.ett-settlement.com. Claim Forms are due September 25, 2009, but the date may be extended. Requests to exclude yourself from the Settlement must be submitted to the settlement administrator and are due July 2, 2009, any objections to the Settlement (which may be made through an attorney) are due July 2, 2009, and any objections to attorneys' fees requested are due July 22, 2009. **If you do not exclude yourself by July 2, 2009 and you are a member of the Class, you will be bound by the Settlement.** You can get a Claim Form at www.ett-settlement.com/claimform, by calling 1-800-589-1423 or by writing the Settlement Administrator at P.O. Box 945, Minneapolis, Minnesota 55440-0945. Questions may also be directed to Class Counsel, by email at Info@ett-settlement.com.

Please do not contact T-Mobile or the Court with questions about this Settlement.

SETTLEMENT ADMINISTRATOR
PO BOX 945
MINNEAPOLIS, MN 55440-0945

IMPORTANT LEGAL NOTICE



Current Customer

POSTCARD #123456789
NAME
ADDRESS 1
ADDRESS 2
CITY STATE ZIP CODE

Legal Notice

If You Are A Current or Former T-Mobile Customer

You may be entitled to benefits from a class action settlement

There is a proposed Settlement pending in a class action involving a flat-rate Early Termination Fee ("ETF") T-Mobile charged to customers. The lawsuit, *Milliron v. T-Mobile USA, Inc.*, No. 08-04149 is pending in the U.S. District Court for the District of New Jersey.

What is the lawsuit about?

The lawsuit claims that the T-Mobile flat-rate ETF provision in its wireless telephone service contracts is unlawful. T-Mobile denies any wrongdoing, but has agreed to settle to avoid the cost and expense of further litigation. The Court has not made a decision in this case.

The Court has appointed lawyers to represent Class Members. You may hire an attorney at your own expense.

Who is included?

You are a Class Member if you are a current or former T-Mobile customer in the U.S. and your contract for wireless telephone service included a provision for payment of a flat-rate ETF from July 23, 1999 to February 19, 2009. If you are not sure whether you are included, you can get more information on the website.

What does the Settlement provide?

A Settlement Fund of \$11.5 million will pay consumer claims. There is also \$2 million in other relief to be divided among Class Members. T-Mobile has also agreed not to put a flat-rate ETF provision into new wireless service agreements for a minimum of 24 months. Certain costs will be deducted from the Fund before distribution including attorneys' fees (which may be up to \$4.5 million), litigation costs and administration fees. The Settlement does not relieve Class Members from any existing or future ETF obligations owed to T-Mobile.

The Settlement releases claims that subscribers may have against T-Mobile relating to ETFs, unless you exclude yourself from the Settlement.

What are my legal rights?

Get complete information about the Settlement and make a decision about your rights:

- **Remain in the Settlement** and submit a claim. You will be bound by the terms of the Settlement and give up your right to sue regarding issues in this case. Claim forms must be received by **September 25, 2009**, but the date may be extended by the Court.
- **Exclude yourself** and receive no benefit from the Settlement. You keep your right to sue at your own expense. Requests for exclusion must be received by the Settlement Administrator by **July 2, 2009**.
- **Object to the Settlement**. Objections must be written and received by **July 2, 2009**. Objections to the application for attorneys' fees and expenses must be received by **July 22, 2009**. Objections will be considered at the Fairness Hearing. You will be bound by the terms of the Settlement even if your objection is rejected.
- **Do nothing** and do not file a claim. You still give up your right to be part of any other lawsuit against T-Mobile about issues relating to the flat-rate ETF.

The Court will determine whether to approve the Settlement at a Fairness Hearing held on **July 27, 2009**. If you filed an objection, you may appear at the hearing to explain your objection, but you are not required to attend.

For complete information and a claim form:

Visit: www.etf-settlement.com

Call: 1-800-589-1423

**Write: Settlement Administrator at P.O. Box 945
Minneapolis, Minnesota 55440-0945.**

**KINSELLA MEDIA, LLC
T-MOBILE ETF
PAGE NUMBER REPORT
JUNE 22, 2009**

PUBLICATION	ISSUE DATE	PAGE NUMBER
<i>USA Today (1)</i>	04/30/09	2B
<i>New York Times (1)</i>	04/30/09	A25
<i>Los Angeles Times (1)</i>	04/30/09	A11
<i>Dallas Morning News (1)</i>	04/29/09	A6
<i>Chicago Tribune (1)</i>	04/30/09	Boardsheet p.17 and Tabloid p.28
<i>Philadelphia Inquirer (1)</i>	04/30/09	A11
<i>San Francisco Chronicle (1)</i>	04/30/09	A5
<i>Washington Post (1)</i>	04/30/09	B8
<i>USA Today (2)</i>	05/04/09	2B
<i>New York Times (2)</i>	05/04/09	A15
<i>Los Angeles Times (2)</i>	05/04/09	A14
<i>Dallas Morning News (2)</i>	05/04/09	A5
<i>Chicago Tribune (2)</i>	05/04/09	Boardsheet p.12 and Tabloid p.28
<i>Philadelphia Inquirer (2)</i>	05/04/09	A11
<i>San Francisco Chronicle (2)</i>	05/04/09	A5
<i>Washington Post (2)</i>	05/04/09	A6
<i>Parade</i>	06/21/09	16